

REMARKS

Summary of the Amendment

Upon entry of the above amendment, claim 1 will have been amended. Accordingly, claims 1-44 will be pending with claims 1, 43 and 44 being in independent form.

Summary of the Official Action

In the instant Office Action, the Examiner withdrew as moot the previous restriction requirement and examined all pending claims 1-44. Additionally, the Examiner rejected claims 4-7 as indefinite. Finally, the Examiner rejected claims 1-44 over the art of record. By the present amendment and remarks, Applicant submits that the rejections have been overcome, and respectfully requests reconsideration of the outstanding Office Action and allowance of the present application.

Non-return of the PTO-1449 filed on June 17, 2005

Applicant has filed a Second Supplemental IDS on June 17, 2005. However, the Examiner has failed to return the form PTO-1449 submitted with the IDS. Accordingly, Applicant respectfully requests that the Examiner initial, sign and return the form PTO-1449 filed with the June 17, 2005 IDS in the next office action.

Traversal of Rejection under 35 U.S.C. § 112, second paragraph

Claims 4-7 were rejected under 35 U.S.C. § 112, second paragraph, as being

indefinite. Applicant respectfully disagrees and traverses this rejection.

With regard to claims 4 and 5, the Examiner asserts that claim 4 is unclear as to what is meant by the surface that engages the rear end of the holding member. Applicant submits that this is clearly shown in the embodiment of, e.g., Fig. 41. The back cap in Fig. 41 clearly utilizes a surface (i.e., one similar to surface 412c of Fig. 34) which engages a rear portion of the holding member 705.

With regard to claim 7, the Examiner asserts that claim 7 is unclear as to what is meant by the surface that engages projections disposed at a rear end of the holding member. Applicant submits that this is clearly shown in the embodiment of, e.g., Figs. 41 and 42. The back cap in Fig. 41 clearly utilizes a surface (i.e., one similar to surface 412c of Fig. 34) which engages projections 705A and 705B of a rear portion of the holding member 705.

Accordingly, Applicant respectfully requests that the Examiner reconsider and withdraw the rejection of these claims under 35 U.S.C. § 112, second paragraph.

Traversal of Rejection Under 35 U.S.C. § 103(a)

Applicant respectfully traverses the rejection of claims 1-44 under 35 U.S.C. § 103(a) as unpatentable over US patent 4,469,110 to SLAMA in view of US patent 6,156,051 to SCHRAGA.

The Examiner acknowledged that SLAMA lacks, among other things, the features recited in the above-noted claims such as the recited main spring disposed between the front and rear ends of the holding member. However, the Examiner asserted that this

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feature is taught in SCHRAGA and that it would have been obvious to one of ordinary skill in the art to combine the teachings of these documents. Applicant respectfully traverses this rejection.

Notwithstanding the Examiner's assertions as to what each of SLAMA and SCHRAGA discloses or suggests, Applicant submits that no proper combination of these documents discloses or suggests: inter alia, a first stop surface that moves with the holding member and a second stop surface non-movably coupled to the body, wherein the second stop surface extends inwardly from the body and is arranged between the first stop surface and the skin engaging end, as recited in independent claim 1; inter alia, a main spring disposed between the front and rear ends of the holding member and a second stop surface axially retained to a front portion of the body, as recited in independent claim 43; and inter alia, a back cap configured to move the holding member to a retracted position, a second spring disposed between the rear end of the holding member and a surface of the back cap, and a second stop surface axially retained to a front portion of the body, as recited in independent claim 44.

Applicant acknowledges that SLAMA discloses a lancet device which utilizes, among other things, a body 2, a front cover 10, and a holding member 3. Nor does Applicant dispute that the front end of the holding member 3 has forms a first stop surface which moves and engages with a second stop surface arranged on a rear end of the front cover 10. Indeed, Fig. 4 of SLAMA clearly shows such contact. However, it is clear that the second stop surface (i.e., the one arranged on the rear end of the front cover 10) is not non-movably coupled to the body 2. To the contrary, this surface is coupled to a rear end

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of the front cover 10 and not the body 2. Nor is this surface properly characterized a non-movable. As the Examiner will note from Fig. 3, rotation of the front cover 10 will cause this surface to move axially. Finally, the Examiner must acknowledge that SLAMA fails to disclose, or even suggest, that the second stop surface extends inwardly from the body and is arranged between the first stop surface and the skin engaging end.

It is also clear that SLAMA fails to disclose, or even suggest, a main spring disposed between the front and rear ends of the holding member and/or a second stop surface axially retained to a front portion of the body. Indeed, the Examiner has acknowledged that the former feature is lacking in SLAMA. With regard to the latter feature, it is clear that the second stop surface (i.e., the one arranged on the rear end of the front cover 10) is not axially retained to a front portion of the body 2. To the contrary, this surface is coupled to a rear end of the front cover 10 and not the front portion of the body 2. Nor is this surface properly characterized axially retained. As the Examiner will note from Fig. 3, rotation of the front cover 10 will cause this surface to move axially.

It is further also clear that SLAMA fails to disclose, or even suggest, a back cap configured to move the holding member to a retracted position and/or a second spring disposed between the rear end of the holding member and a surface of the back cap. Indeed, the Examiner has failed to identify any of these features in SLAMA. Nor can the Examiner do so from a fair review of the figures of SLAMA. As the Examiner will note from Figs. 1-5, the body 2 has a closed rear end and merely utilizes a single spring 4.

Applicant also acknowledges that SCHRAGA discloses a lancet device (see e.g., Fig. 16) which utilizes, among other things, a body, a front cover, a holding member, two

springs and a back cap. However, it is clear that the second stop surface 28, while being non-movably coupled to the body and extending inwardly therefrom (see Fig. 2), is not arranged between the first stop surface and the skin engaging end.

It is also clear that SCHRAGA fails to disclose, or even suggest, the combination of a first stop surface coupled to or arranged on a front portion of the holding member and a second stop surface axially retained to a front portion of the body. To the contrary, Fig. 2 shows the second stop surface 28 arranged at a rear portion of the body and not on a front portion of the body. Moreover, the first stop surface, while clearly coupled to the holding member 32, is not coupled to or arranged on a front portion of the holding member 32. To the contrary, Fig. 2 shows a first stop surface coupled to member 33 which is arranged on the rear portion of the holding member 32.

Thus, Applicant submits that the above-noted documents fail to disclose or suggest the features recited in at least independent claims 1, 43 and 44. Because no proper combination of the above-noted documents discloses or suggests at least the above-noted features of the instant invention, Applicant submits that no proper modification of these documents can render unpatentable the combination of features recited in at least independent claims 1, 43 and 44.

Furthermore, Applicant submits that there is no motivation or rationale disclosed or suggested in the art to modify any of the applied documents in the manner asserted by the Examiner. Nor does the Examiner's opinion provide a proper basis for these features or for the motivation to modify these documents, in the manner suggested by the Examiner. Therefore, Applicant submits that the invention as recited in at least independent claims 1,

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43 and 44 is not rendered obvious by any reasonable inspection of these documents.

Additionally, Applicant submits that dependent claims 2-42 are allowable at least for the reason that these claims depend from an allowable base claim and because these claims recite additional features that further define the present invention. In particular, Applicant submits that no proper combination of SLAMA and SCHRAGA discloses or suggests, in combination: that the lancet device further comprises a back cap configured to move between a retracted position and an original position as recited in claim 2; that the back cap is configured to move the holding member to a retracted position as recited in claim 3; that the back cap is coupled to a surface that engages the rear end of the holding member as recited in claim 4; that the back cap includes a surface that engages the rear end of the holding member as recited in claim 5; that the back cap comprises an opening that receives a rear end of the holding member as recited in claim 6; that the back cap includes a surface that engages projections disposed on the rear end of the holding member as recited in claim 7; that the lancet device further comprises another spring for biasing the back cap towards an original position as recited in claim 8; that the main spring biases the holding member towards an extended position, and further comprising another spring for biasing the holding member in an opposite direction as recited in claim 9; that the main spring and said other spring are arranged to surround portions of the holding member as recited in claim 10; that the main spring is coupled one side of the holding member and to a surface of the body as recited in claim 11; that the holding member comprises cylindrical surfaces and a polygonal cross-sectional shape as recited in claim 12; that the lancet device further comprises a locking member mounted to the rear end of the holding

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member as recited in claim 13; that the main spring surrounds a portion of the holding member and wherein the other spring is disposed between a surface of a back cap and the locking member as recited in claim 14; that the trigger is movably mounted to the body as recited in claim 15; that the front cover is removably mounted to the body as recited in claim 16; that the lancet device further comprises a mechanism for at least temporarily maintaining a depth setting position of the front cover as recited in claim 17; that the holding member comprises an integrally formed deflecting member that engages a surface of the body as recited in claim 18; that the front end comprises an opening that is configured to removably receive the lancet as recited in claim 19; that the lancet device further comprises a deflecting member configured to be deflected by the trigger as recited in claim 20; that the deflecting member is coupled to the holding member as recited in claim 21; that the deflecting member comprises an engaging surface that contacts a surface of the body as recited in claim 22; that the deflecting member is integrally formed with the holding member as recited in claim 23; that the lancet device further comprises indicia arranged on at least one of the front cover and the body as recited in claim 24; that the indicia is arranged on an outer circumferential surface of the body as recited in claim 25; that the indicia is arranged on an outer circumferential surface of the front cover as recited in claim 26; that the holding member comprises a front portion that includes the front end and a rear portion that includes the rear end, wherein the front and rear portions are connected together as recited in claim 27; that the rear portion comprises a locking end which receives a locking member as recited in claim 28; that the front portion comprises a deflecting member configured to be deflected by the trigger as recited in claim 29; that the

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front cover rotates about an axis that runs through the lancet opening and the holding member as recited in claim 30; that the main spring is disposed between the trigger and a back cap as recited in claim 31; that the body comprises a two-piece body as recited in claim 32; that the lancet device further comprises another spring axially retained between walls of the two-piece body as recited in claim 33; that the front cover is removably mounted to the two-piece body as recited in claim 34; that the lancet device further comprises a back cap movably mounted to the two-piece body as recited in claim 35; that the body comprises an ergonomic shape as recited in claim 36; that the body comprises cylindrical surfaces as recited in claim 37; that the body comprises a plastic material as recited in claim 38; that the front cover comprises gripping protrusions as recited in claim 39; that the lancet device further comprises threads connecting the front cover to the body as recited in claim 40; a method of puncturing a surface of skin using the lancet device of claim 1, wherein the method comprises adjusting a set depth of penetration of the needle by rotating the front cover to a desired set position, disposing the skin engaging end of the lancet device against a user's skin, and triggering the trigger to cause the lancet needle to penetrate the user's skin, wherein the puncture allows a blood sample to be taken as recited in claim 41; and a method of using the lancet device of claim 1, wherein the method comprises rotating the front cover to a desired set position, moving the holding member to a retracted position, maintaining the holding member in the retracted position until the trigger is triggered, disposing the skin engaging end of the lancet device against a user's skin, and triggering the trigger to cause movement of the holding member as recited in claim 42.

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Applicant requests that the Examiner reconsider and withdraw the rejection of the above-noted claims under 35 U.S.C. § 103(a).

CONCLUSION

In view of the foregoing, it is submitted that none of the references of record, either taken alone or in any proper combination thereof, anticipates or renders obvious the Applicant's invention, as recited in each of the pending claims. The applied references of record have been discussed and distinguished, while significant claimed features of the present invention have been pointed out.

Accordingly, reconsideration of the outstanding Office Action and allowance of the present application and all the claims therein are respectfully requested and now believed to be appropriate.

The Commissioner is hereby authorized to refund excess payments and charge any additional fee necessary to have this paper entered to Deposit Account No. 19-0089.

Respectfully submitted,
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